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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,285	09/07/2000	Douglas W. King	5932.8	1176

28765 7590 10/20/2006

WINSTON & STRAWN LLP  
1700 K STREET, N.W.  
WASHINGTON, DC 20006

EXAMINER
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NGUYEN, NGA B

ART UNIT	PAPER NUMBER
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3692

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/657,285

Applicant(s)

KING, DOUGLAS W.

Examiner

Nga B. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-9,11,13,14,16-18,20,21,23,24 and 26-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-9,11,13,14,16-18,20,21,23,24 and 26-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is the answer to the Amendment filed on July 31, 2006, which paper has been placed of record in the file.
2. Claims 1, 3-5, 7-9, 11, 13, 14, 16-18, 20, 21, 23, 24, and 26-45 are pending in this application.

#### ***Response to Arguments/Amendment***

3. Applicant's arguments with respect to claims 1, 3-5, 7-9, 11, 13, 14, 16-18, 20, 21, 23, 24, and 26-45 have been considered but are moot in view of new grounds of rejection.

#### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

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1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 3-5, 7-9, 11, 13, 14, 16-18, 20, 21, 23, 24, and 26-45 are ***provisionally*** rejected on the ground of nonstatutory double patenting claims 1, 3-9, 11-57, 59, 61, 63, 65, and 67-99 of copending Application No. 09/391,285. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: A method and system for authorizing purchase transactions over a computer network using an account number that identifies a consumer's account from which funds will be withdrawn to pay a purchase price and an authorization token associated with said account number which, when used with said

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account number, enables withdrawal of funds from said account, said method and system comprising:

transmitting said account number electronically over said network from a consumer location to an on-line merchant location;

forwarding said account number electronically over said network from said on-line merchant location to a third party contractor location;

initiating a verification connection between said consumer location and said third party contractor location, said verification connection including a verification web browser window provided from said on-line merchant location to said consumer location to initiate said verification connection between said consumer location and said third party contractor location, said verification connection being independent of, and bypassing said on-line merchant location;

determining at said third party contractor location an authentication token type associated with said account number;

prompting a consumer at said consumer location to electronically transmit an authentication token in accordance with said determined authentication token type over said connection to said third party contractor location;

transmitting said authentication token electronically over said connection; and

determining at said third party contractor location whether said account number and said authentication token are valid and, if so, then authorizing the purchase transaction to proceed.

**Conclusion**

6. Claims 1, 3-5, 7-9, 11, 13, 14, 16-18, 20, 21, 23, 24, and 26-45 are rejected.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
C/o Technology Center 3600  
Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

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A handwritten signature in black ink, appearing to read "Nga Nguyen". The signature is fluid and cursive, with the first name "Nga" and last name "Nguyen" clearly distinguishable.

NGA NGUYEN  
PRIMARY EXAMINER

October 10, 2006